

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

BERNARD CURTIS DAVIS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. C13-5438 RBL

ORDER DENYING CERTIFICATE  
OF APPEALABILITY

THIS MATTER is before the Court on Petitioner Davis's Motion for a Certificate of Appealability on his 28 U.S.C. §2255 claim. The Motion tracks his underlying §2255 very closely.

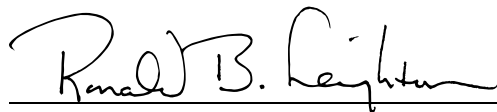
The district court should grant an application for a Certificate of Appealability only if the petitioner makes a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To obtain a Certificate of Appealability under 28 U.S.C. § 2253(c), a habeas petitioner must make a showing that reasonable jurists could debate whether, or agree that, the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further. *Slack v. McDaniel*, 120 S.Ct. 1595, 1603-04 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)). When the court

1 denies a claim on procedural grounds, the petitioner must show that jurists of reason would find  
2 it debatable whether the petition states a valid claim of the denial of a constitutional right *and*  
3 that jurists of reason would find it debatable whether the district court was correct in its  
4 procedural ruling. *Slack v. McDaniel*, 120 S.Ct. at 1604.

5 For the reasons stated in this Court's Order [Dkt. #11], Petitioner has failed to make "a  
6 substantial showing of a denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Accordingly,  
7 the Motion for a Certificate of Appealability is DENIED.

8 **IT IS SO ORDERED.**

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10 Dated this 14<sup>th</sup> day of May, 2014.

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12 RONALD B. LEIGHTON  
13 UNITED STATES DISTRICT JUDGE  
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